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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,224	05/23/2000	Lundy Lewis	APB-018	4214

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LAHIVE & COCKFIELD, LLP.  
28 STATE STREET  
BOSTON, MA 02109

EXAMINER
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ENGLAND, DAVID E

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/577,224

Applicant(s)

LEWIS, LUNDY

Examiner

David E. England

Art Unit

2143

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 April 0205 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1,3-6 and 23-27.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
**DAVID WILEY**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2143

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues in substance that neither Maccabee nor Roytman, alone or in combination, teach or suggest monitoring, by a plurality of monitoring agents, operational characteristics of a network service associated with a service level management domain and supporting one or more business processes under service level management, each monitoring agent detecting events of a select type of the associated operational characteristics from the network service and mapping such events into alarms. Also, the Maccabee patent does not teach or suggest the use of detected events to provide a message to an overseer that something is wrong or about to go wrong with a service under service level management, Maccabee does not consider events detrimental or potentially detrimental to a transaction or that events indicate an undesirable or potentially undesirable operational characteristic of a network service nor does Maccabee teach or suggest that as part of the step of monitoring, events are mapped into alarms, which indicate to an overseer that something is wrong or about to go wrong with a network service associated with a service level management domain.

As for part 1, Examiner would like to draw the Applicant's attention to the section the Examiner cited that are of importance to the Final Rejection dated 01/04/2005. In which it is stated that sensors include software written to interact with software exits by registering for notifications of select conditions; software and/or hardware written to intercept activities packet by the business transaction's software and/or hardware. This is one example of how the prior art of Maccabee reads on the broad claim language of the Applicant's invention. As to the Maccabee not teaching events indicate a change in an operational characteristic of a network service associated with a service level management domain supporting one or more business processes under service level management, this claim language is not present in claim 1 and therefore has no merit. As for Maccabee not teaching mapping of events into alarms, it is found in the cited sections from the previous Office Action that the last paragraph of column 7 in Maccabee states "any additional correlation data useful for later associating the event with other events to form transactions", could be interpreted into the broad claim language of the Applicant's invention. As for Maccabee not considering events detrimental or potentially detrimental to a transaction, there is not such language in the Applicant's claim, therefore is inconsequential. As for Maccabee not teaching that events indicate an undesirable or potentially undesirable operational characteristic of a network service, there is not such language in the Applicant's claim, therefore is inconsequential. As for Maccabee not teaching or suggesting that as part of the step of monitoring, events are mapped into alarms, which indicate to "an overseer that something is wrong or about to go wrong with a network service associated with a service level management domain", there is not such language that states that the alarm is a negative event nor is there anything in the claim language that states "something is wrong or about to go wrong with a network service associated with a service level management domain. If the Applicant wishes to put any of the language that is not in the claim, into the claim it would require further search and consideration.

The Applicant argues in substance that Roytman patent fails to teach or suggest a step of monitoring by a plurality of monitoring agent, operational characteristics of a network service associated with a service level management domain in supporting one or more business processes under service level management, each monitoring agent detecting events of a select type of the associated operational characteristics from the network service and mapping such events into alarms.

As to part 2, Examiner would like to point out that Roytman is not utilized for this section of the claim, and therefore the argument is moot.

The Applicant argues in substance that there is no motivation to combine the references in order to render the claims obvious.

As to part 3, Examiner would like to point to Roytman columns 1-3, in which there are multiple reasons for combining the referenced of Maccabee and Roytman such as, Alarm manager program is intended to be used by network administrators and operators, to allow them to "quickly see problems in the enterprise, and give them access to enough information so the problem can be fixed, (e.g., col. 2, lines 52 - 67). This along with the reasons for combining the references in the Final Office Action and other areas of the prior art can be utilized for reasons to combining references.

As to other arguments that Applicant states, the information to similar arguments can be found above and in the Final Office Action dated 01/04/2005. Therefore, rejection still stands..

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